

REMARKS

Reconsideration and allowance of the subject application are respectfully requested.

As a preliminary matter, the Examiner is requested to acknowledge Applicants' claim for foreign priority under 35 U.S.C. §119.

Claims 1 and 2 stand rejected under 35 U.S.C. §102(b) as being anticipated by U.S. Patent 5,991,329 to Lomp. This rejection is respectfully traversed.

To establish that a claim is anticipated, the Examiner must point out where each and every limitation in the claim is found in a single prior art reference. *Scripps Clinic & Research Found. v. Genentec, Inc.*, 927 F.2d 1565 (Fed. Cir. 1991). Every limitation contained in the claims must be present in the reference, and if even one limitation is missing from the reference, then it does not anticipate the claim. *Kloster Speedsteel AB v. Crucible, Inc.*, 793 F.2d 1565 (Fed. Cir. 1986). Lomp fails to satisfy this rigorous standard.

Lomp discloses an automatic power control system for a CDMA communication system. Contrary to the Examiner's contention that Lomp discloses a microwave time division multiple access system, the text in column 1, lines 8-20 refers to the limitation of FDMA and TDMA systems and goes on in column 1 to point out benefits of using CDMA-type systems rather than TDMA-type systems. Thus, Lomp's automatic power control invention is disclosed in the context of CDMA system and not the context of a TDMA system as in claim 1. As the Examiner also acknowledges in the section entitled allowable subject matter, Lomp fails to disclose updating the slow AGC using peaking amplitude information coming from, both outdoor and indoor measurement points. This allowable claim feature has been incorporated into independent claim 1. Accordingly, claims 1-3 and 5 should now be allowed.

New claim 6 recites a signal level control method in a point-to-multipoint microwave time division multiple access (TDMA) radio communication systems. Again, Lomp's teachings are not related to TDMA, but instead to CDMA. Moreover, claim 6 recites that the radio node includes a local control loop that "is activated through a fast AGC used as a dynamic buffer to adjust the signal power level input in a demodulator of the node during a fast transient of the signal level and is able to discriminate a single terminal signal." Although Lomp discloses AGC 511, the AGC circuit 511 simply maintains the level of the output signal of the variable game amplifier 510 at a "near constant value." See column 11, lines 17-21. Lomp does not describe this AGC 511 as being fast in an absolute sense or relative to another slower AGC. Indeed, the Examiner admits that Lomp does not disclose a slow AGC circuit. There is certainly no disclosure in Lomp of a fast AGC using a dynamic buffer during a fast transient that occurs in signal levels received from each of the remote access terminals.

The Examiner relies upon McCune as teaching a slow AGC circuit. But the Examiner does not provide a sufficient motivation to combine Lomp and McCune. The Examiner simply says that these two references "are combinable because they share a common endeavor, namely, communication systems that includes automatic gain control." In any obviousness determination involving a contention that it would be obvious to combine prior art references to arrive at an invention, the relevant inquiry for determining the scope and content of the prior art is whether there is a reason, suggestion, or motivation from the prior art or elsewhere that would have led one of ordinary skill in the art to combine the references. *Ruiz v. A.B. Chance*, 234 F.3d 654, 664 (Fed. Cir. 2000). A proper motivation to combine requires an appreciation of the *desirability* of making the combination. It is not measured by the *feasibility* of making a

modification or combination. See *Winner Int'l Royalty Corp.*, 22 F.3d 1340, 1349, (Fed. Cir. 2000).

Here, the Examiner simply indicates that the McCune and Lomp belong to the same general field of communication system. This is not a motivation to combine these two references. Under that reasoning any two communications-related patents could be combined. That certainly is not the appropriate standard.

Nor do Lomp and McCune appreciate the problems addressed by the present invention. Indeed, as explained in the background of the present application, the inventors recognized that the prior art only provided two alternatives to control transmit power levels. The first was to remotely control the power of each remote access terminal on the basis of the signal level received at the receiving node using a fast AGC loop. The other alternative was to adjust the power level of the remote access terminal to the highest power level possible to counteract attenuating radio channel influences such as rain. In the absence of such influences, the AGC in the receiving node attenuated the received signal level.

The disadvantage of the first alternative is that in order to achieve effective control, it is necessary to send many power control messages from the receiving node to each of the remote access terminals. Those many messages take up too much of the radio channel bandwidth for control messages. The disadvantage of the second alternative is paid in terms of high cost of the receiver, electromagnetic pollution (because of the highest power level transmissions of all remote access terminals), and ineffective control of signal-to-noise ratios.

These problems are overcome using a unique combination of elements not disclosed or suggested by Lomp or McCune. Specifically, claims 6, 11, and 17 employ a fast AGC for each remote access terminal, a common slow AGC, and a slow radio loop control that sends out

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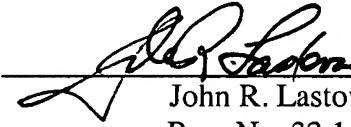
power control messages to the remote access terminals using much less bandwidth then in previous power control loop configurations.

The application is now in condition for allowance. An early notice to that effect is earnestly solicited.

Respectfully submitted,

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